



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL -

Honorable V. A. Collins, Member
Board of Regents of the State
Teachers Colleges of Texas
Livingston, Texas,

Dear Mr. Collins:

Opinion No. 0-5750

Re: Right of holder of State war-
rant who sells warrant at a dis-
count to be reimbursed by State
for loss thus sustained.

From your letter of the 29th ult., it appears that your Board contracted with one J. B. Martin to make certain improvements at the institution in San Marcos, Texas, the contract providing that Martin should be paid in "current funds". When the work was completed, warrants upon the State Treasury in the amount agreed to be paid under the contract were delivered to Mr. Martin, who accepted such warrants and sold them at a discount of \$284.49. He is asking that the Board of Regents reimburse him for the discount he took in selling his warrants. Your Board desires the opinion of this Department upon the question whether the Board must or can legally make such reimbursement.

The phrase "current funds", to which you refer, means simply whatever is receivable by law as money, whether in the form of notes or coin. *Bull v. First National Bank*, 123 U. S. 105, 31 L. ed. 97. Mr. Martin is perhaps laboring under the misapprehension that a warrant upon the Treasury of the State constituted "payment" of the State's obligation. This is incorrect; a warrant is simply an order upon the State Treasurer to pay, out of appropriated funds, as and when the moneys are available, a specified sum of money. This is the manner prescribed by law for the payment of obligations of the State, and all persons entering into contracts with the State are charged with knowledge that payment will be

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made in such manner as and when moneys are on hand in the Treasury. Such warrants, when funds are available for their payment in due order, are paid in "current funds".

It has long been settled in this State that the holder of a warrant upon the Treasury of the State, issued by the Comptroller, who sells the warrant at a discount, cannot hold the State liable for the loss he thus sustains; that an officer of the State has no power to obligate the State to pay such loss; and that the payment of such loss is prohibited by Section 44 of Article 3 of the State Constitution. State v. Wilson, 71 T. 291, 9 S. W. 155.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

H. W. Fairchild
Assistant

AWF-MR

APPROVED DEC 15, 1943

Gerard E. Mann

ATTORNEY GENERAL OF TEXAS

